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EXAMINER

LE, KAREN L

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/627,554
Filing Date: July 25, 2003
Appellant(s): NIERHAUS ET AL.

NIERHAUS, FLORIAN
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/10/2009 appealing from the Office action mailed 5/27/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2003/0158900	Santos	8/21/2003
US 7,257,769	Caspi	8/14/2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. Claims 1-2, 4-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santos (US 2003/0158900) in view of Caspi (US 2004/0250201).

Regarding claim 1, Santos teaches a method for indicating a speaker during a conference (Fig.4, item 414), comprising:

determining a list of participants in a conference (Fig.4, item 403);

determining a sample from said conference (Fig.2, item 404);

determining a first participant from said list that is speaking during said sample (Fig.4, item 414);

determining a second participant from said list that is speaking during said sample (Fig.4, item 414);

providing data indicative of said first participant and said second participant (Fig. 3, item 414)

displaying a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity (Fig. 3, Port No. 5, Image #5, Status: speaking)

displaying a second graphic indication that said second participant is speaking (Fig. 3, Port No. 4, Image #4, Status: active, most recent participant

speaking)), wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity (speaking) is different than the second level of activity (active), and wherein the second graphic indication (e.g. picture of Linda Davis) is displayed at a same time as the first graphic indication (Picture of Betty carter, Para. 0027 and 0037).

Santos does not teach the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity. However, Caspi teaches the first graphic indication comprises an icon having a first size based on the first level of activity (Fig. 7, item 382), and wherein the second graphic indication comprises an icon having a second size based on the second level of activity (Fig. 7, item 384) (Paragraph 0066 and 0060). Caspi teaches document 381 (Fig. 7) includes icons that indicate annotations to the document 381, such as icons 382 and 384. The different colors, shapes, fill patterns, flashing rates, sizes, etc. of the icons displayed in or with the document 381 indicate the providers of the annotations associated with the icons. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Caspi's feature into Santos' system in order to provide an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

Regarding claim 2, Santos further teaches wherein said determining a participant from said list that is speaking during said sample includes determining an active

channel in said sample and determining a speaker associated with said active channel (Para. 0034).

Regarding claim 4, Santos further teaches determining at least one active channel in said conference (Para. 0034).

Regarding claim 5, Santos further teaches determining at least one active channel includes determining significance of a plurality of channels in said conference and selecting said at least one active channel from said plurality of channels (Para. 0034).

Regarding claim 6, Santos further teaches determining a sample from said conference includes determining a sample from said at least one active channel (Para. 0034).

Regarding claim 7, Santos further teaches providing data indicative of said sample includes providing a sample of voice data associated with said conference (Para. 0008).

Regarding claim 8, Santos further teaches providing data indicative of said participant includes providing said data via a first channel and wherein said providing a sample of voice data associated with said conference includes providing said sample of voice data via a second channel (Para. 0011).

Regarding claim 9, Santos further teaches providing data indicative of said participant includes providing said data to a first client device and wherein said

providing a sample of voice data associated with said conference includes providing said sample of voice data to a second client device (Para. 0019).

Regarding claim 10, Santos further teaches determining a significance of at least one active channel in said conference (Para. 0034).

Regarding claim 11, Santos further teaches determining a participant from said list that is speaking during said sample includes identifying a participant speaking on said at least one active channel during said sample (Para. 0034 and page 5, claim 10).

Regarding claim 12, Santos further teaches 1, wherein said data indicative of said participant includes data indicative of a device associated with said participant (Fig. 3, Port No. 5, Image #5, Status: speaking)

Regarding claim 13, Santos further teaches said data indicative of said participant includes data indicative of a channel associated with said participant (Para. 0034).

Regarding claim 14, Santos further teaches 1, wherein said sample includes data from multiple active channels associated with said conference (Para. 0008)

Regarding claim 15, Santos further teaches determining a participant from said list that is speaking during said sample includes determining a participant from a plurality of participants that are aggregated on a channel (Para. 0011).

Regarding claim 16, Santos further teaches wherein said data indicative of said sample has a different sample size than said data indicative of said participant (Para. 0014).

Regarding claim 17, Santos further teaches a system for indicating a speaker during a conference, comprising:

a network (Fig. 1).

at least one client device operably coupled to said network (Fig. 1, item 124);

a server (Fig. 1, item 119) operably coupled to said network, said server adapted to determine a list of participants in a conference;

determine a sample from said conference;

determine a first participant from said list that is speaking during said sample;

determine a second participant from said list that is speaking during said sample~

provide data indicative of said sample; provide data indicative of said first participant and said second participant; and display a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity; and display a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity is different than the second level of activity, and wherein the second graphic indication is displayed at a same time as the first graphic indication (see Fig. 3, Table 302, Para. 0027).

Santos does not teach the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity. However, Caspi teaches the first graphic indication comprises an icon having a first size based on the first level of activity (Fig. 7, item 382), and wherein the second ,graphic

indication comprises an icon having a second size based on the second level of activity (Fig. 7, item 384) (Paragraph 0066 and 0060). Caspi teaches document 381 (Fig. 7) includes icons that indicate annotations to the document 381, such as icons 382 and 384. The different colors, shapes, fill patterns, flashing rates, sizes, etc. of the icons displayed in or with the document 381 indicate the providers of the annotations associated with the icons. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Caspi's feature into Santos' system in order to provide an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

Regarding claim 18, Santos further teaches wherein said server is adapted to determine an active channel associated with said conference (Para. 0034).

Regarding claim 20, Santos further teaches, wherein said client device is adapted to display an indication of said participant (fig. 3, items image, status, location)

Regarding claim 21, Santos further teaches wherein said client device is adapted to display a level of activity of said participant in said sample (Fig. 3, item status).

Regarding claim 22, Santos further teaches a system for indicating a speaker during a conference, comprising:

a processor (Fig. 1, item 119);

a communication port coupled to said processor and adapted to communicate with at least one device (Fig. 1, item 124); and

a storage device coupled to said processor and storing instructions adapted to be executed by said processor to (Fig. 1, item 123)

executed by said processor to: determine a list of participants in a conference (Fig. 4, item 403);

determine a sample from said conference (fig. 4, item 404);

determine a first participant from said list that is speaking during said sample;

determine a second participant from said list that is speaking during said sample;

during said sample;

provide data indicative of said sample;

provide data indicative of said first participant and said second participant; and

display a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity;

display a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity wherein the first level of activity is different than the second level of activity, and wherein the second graphic indication is displayed at a same time as the first graphic indication (See Fig. 3, table 302, Para 0027).

Santos does not teach the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

However, Caspi teaches the first graphic indication comprises an icon having a first size based on the first level of activity (Fig. 7, item 382), and wherein the second graphic indication comprises an icon having a second size based on the second level of activity (Fig. 7, item 384) (Paragraph 0066 and 0060). Caspi teaches document 381 includes icons that indicate annotations to the document 381, such as icons 382 and 384. The different colors, shapes, fill patterns, flashing rates, sizes, etc. of the icons displayed in or with the document 381 indicate the providers of the annotations associated with the icons. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Carpi's feature into Santos' system in order to provide an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

Regarding claim 23, Santos further teaches an article of manufacture comprising: a computer readable medium (Fig. 1, item 119) having stored thereon instructions which, when executed by a processor (Fig. 1, item 119), cause said processor to: determine a list of participants in a conference (Fig. 4, item 403); determine a sample from said conference (Fig. 4, item 404);
determine a first participant from said list that is speaking during said sample;
determine a second participant from said list that is speaking during said sample;
provide data indicative of said sample;

provide data indicative of said first participant and said second participant;
and display a first graphic indication that said first participant is speaking,
wherein the first graphic indication further indicates a first level of activity;
display a second graphic indication that said second participant speaking, wherein the
second graphic indication further indicates a second level of .activity wherein the first
level of activity is different than the second level of activity, and wherein the second
graphic indication is displayed at a same time as the first graphic indication (See fig. 3,
table 312, Para 0027). Santos does not teach the first graphic indication comprises an
icon having a first size based on the first level of activity, and wherein the second
graphic indication comprises an icon having a second size based on the second level of
activity. However, Caspi teaches the first graphic indication comprises an icon having a
first size based on the first level of activity (Fig. 7, item 382), and wherein the second
,graphic indication comprises an icon having a second size based on the second level
of activity (Fig. 7, item 384) (Paragraph 0066 and 0060). Caspi teaches document 381
includes icons that indicate annotations to the document 381, such as icons 382 and
384. The different colors, shapes, fill patterns, flashing rates, sizes, etc. of the icons
displayed in or with the document 381 indicate the providers of the annotations
associated with the icons. Thus, it would have been obvious to one of ordinary skill in
the art at the time the invention was made to incorporate Caspi's feature into Santos'
system in order to provide an icon having a first size based on the first level of activity,
and wherein the second graphic indication comprises an icon having a second size
based on the second level of activity.

(10) Response to Argument

Appellant argues (Page 6 of Brief) that Santos does not disclose graphical indication of a first level of activity and a second level of activity and. Examiner respectfully disagrees for the following reason. Santos teaches a first level of activity (i.e., speaking) which is different than a second level of activity (i.e., active). Santos also teaches many levels of activity such as speaking, active, listen only, hold, dialing, and absent. Appellant also argues that the above levels of activity are called statuses. However level and status have the same meaning as rank. So level of activities are depended on how the activities are defined by rank or level or status.

Appellant further argues that Caspi does not teach an icon having a first size based on a first level of activity, and a second graphic indication that comprises an icon having a second size based on a second level of activity. Examiner respectfully disagrees. Caspi teaches the first graphic indication comprise an icon having a first size based on the first level of activity (Fig. 7, item 382), and wherein the second graphic indication comprises an icon having a second size based on the second level of activity (Fig. 7, item 384) (paragraph 0051, lines 13-18, and paragraph 0060, lines 3-7). Caspi teaches the window 322 also includes icons or other identifiers 326, 328, 330, 332, 334, each being associated with a different participant. Each of the icons 326, 328, 330, 332, 334 may be different (e.g., visually distinct or having a different color, shape, fill pattern, flashing rate, size, etc.) to indicate its relationship with a particular participant. Santos teaches displaying a first graphic indication that first participant is speaking (Fig. 3, image #5, status: speaking), displaying a second graphic indication that second

participant is speaking (Fig. 3, image #4, status: active, most recent participant speaking). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Carpi's feature into Santos' system in order to provide an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

It is old and well known to use graphs such as icons to suggest level of activities. (e.g., a stereo system's equalizer bars, which depict the volume of the music or bars on the cell phone to indicate the strength of a signal). The use of graphics, shapes and different levels does not rise to the level of patentability.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Karen L Le/
Examiner, Art Unit 2614

Art Unit: 2614

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